

SA:CRH
F.#2014R01979

15-383 M

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TO BE FILED UNDER SEAL

UNITED STATES OF AMERICA

- against -

ALAN SERRANO,

Defendant.

COMPLAINT AND AFFIDAVIT
IN SUPPORT OF A
ARREST WARRANT

(T. 18 U.S.C. §§ 641, 2)

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EASTERN DISTRICT OF NEW YORK, SS:

ERIC MARYEA, being duly sworn, deposes and states that he is a Special Agent with the Department of Defense, Defense Criminal Investigative Service ("DCIS"), duly appointed according to law and acting as such.

Upon information and belief, on or about and between May 29, 2014 and June 4, 2014, within the Eastern District of New York and elsewhere, the defendant ALAN SERRANO, together with others, did willfully and knowingly and without authority sell, convey, and dispose of property of the United States, to wit: the theft and the subsequent sale of military-owned night vision equipment, worth over twenty-four hundred (\$2400.00) dollars.

(Title 18, United States Code, Sections 641 and 2)

The source of your deponent's information and the grounds for his belief are

as follows:¹

1. I have been employed as a Special Agent with the DCIS for approximately four (4) years, and am currently assigned to the New York Resident Agency in Melville, New York. Among other things, I am responsible for conducting and assisting in investigations into the theft and conversion of stolen government property and violations of U.S. export control laws. I have gained expertise in the conduct of investigations into theft and conversion of stolen government property and violations of U.S. export control laws through training in seminars, classes, and daily work related to conducting these types of investigations. I have participated in numerous investigations, during the course of which I have interviewed suspects and witnesses, conducted physical surveillance, executed court-authorized search and arrest warrants, and used other investigative techniques to secure relevant information regarding various crimes. As a result of my training and experience, I am familiar with techniques and methods of operation used by individuals involved in criminal activity to conceal their activities from detection by law enforcement authorities.

2. I have personally participated in the investigation of the offenses discussed herein. I am familiar with the facts and circumstances of this investigation from my own personal participation in this investigation, my review of documents and physical evidence, and discussions I have had with other law enforcement personnel. Statements attributable to individuals herein are set forth in sum and substance and in part.

3. DCIS, in conjunction with the Federal Bureau of Investigation ("FBI") and the Department of Homeland Security, Homeland Security Investigations ("HSI"), is

¹ Because this affidavit is submitted for the limited purpose of establishing probable cause for a search warrant, I have not set forth each and every fact learned during the course of the investigation.

investigating the theft and sale without authorization of military equipment, including “night vision devices” such as Image Intensifier Assemblies (“IIA”).

4. An IIA is a component for night-vision equipment that includes an image intensifier tube, the item that is responsible for increasing the intensity of available light necessary for night vision equipment to work effectively. Night vision devices acquired by the United States military, such as the two stolen IIAs described below, contain components that are made to military specifications and are required by the United States military to be rendered useless for their intended purpose prior to leaving government control. Accordingly, the United States military’s policies prohibit the sale of fully-functional military-issued night vision equipment, like the stolen IIAs described below, on websites like eBay or otherwise, and any such sale would therefore be without government authority.

5. On or about October 31, 2014, DCIS and HSI learned that an individual (hereafter the “CI”)² was attempting to sell a thermal imaging device (a night vision-type device that forms an image using thermal or infrared radiation) on eBay, an internet auction-sales website. Law enforcement was able to confirm that the device was originally sold to the United States military, and therefore was United States Government property. Record checks from publicly available information and law enforcement databases revealed that the eBay account belonging to the CI was registered to an address in Brooklyn, New York.

6. On or about November 4, 2014, law enforcement confiscated the

² The CI was approached by law enforcement, as described in the paragraphs below, and has agreed to voluntarily provide information to law enforcement. The information provided by the CI has been found to be reliable because it has been corroborated by other independent evidence, as described more fully below. A criminal history check of the CI has revealed no prior criminal record.

thermal imaging device from the CI that he was attempting to sell on eBay, because it was stolen government property. The CI agreed to cooperate and speak with the government. The CI stated, in sum and substance and in part, that he did not know the thermal imaging device was stolen government property, that he had purchased the item from another seller on eBay, and that he had purchased other night-vision equipment from other sellers on eBay. The CI subsequently provided DCIS with photographs that he had taken of the other items he had purchased, and turned over all additional stolen equipment still in his possession.

7. Among other things, the CI turned over an AN/PVS-14 unit that the CI had purchased from another seller that he met on the eBay website. An AN/PVS-14 is a monocular night vision device, which can be attached to a firearm or a helmet. One component of an AN/PVS-14 night vision device is the IIA, the item described above that is responsible for increasing the intensity of available light. An example photograph of an AN/PVS-14 unit is attached as Exhibit 1.

8. The item turned over by the CI is an AN/PVS-14 unit that contains an Exelis IIA stamped with serial number 4166553 and contract number W9124Q-05-D-0821. According to the manufacturer, the IIA was a spare part purchased by the U.S. Army Research, Development and Engineering Command Acquisition Center, and was shipped on or about February 25, 2011 (hereafter "STOLEN IIA-1"). A picture of the AN/PVS-14 unit that contains STOLEN IIA-1 is attached as Exhibit 2.

9. The CI identified the AN/PVS-14 unit that contains STOLEN IIA-1 as an item offered for sale on eBay from a seller with the User ID "serrano_713." The CI purchased the AN/PVS-14 unit that contains STOLEN IIA-1 via direct email correspondence with an individual operating the Yahoo! Email account "serrano_713@yahoo.com," and

subsequently paid for the item via PayPal (a company owned by eBay that allows the payment and transfer of money over the internet), on or about June 4, 2014.

10. In response to a grand jury subpoena, eBay produced certain records (the “EBAY RECORDS”) associated with the eBay User ID “serrano_713” (the “USER ID”). The USER ID is registered to Alan Serrano of El Paso, Texas. The email address registered for the USER ID is “serrano_713@yahoo.com.”

11. In response to a grand jury subpoena, PayPal produced certain records (the “PAYPAL RECORDS”) associated with “serrano_713@yahoo.com” (the “YAHOO ADDRESS”). According to the PAYPAL RECORDS, the YAHOO ADDRESS is the registered email address for Alan Serrano of El Paso, Texas, the PayPal account holder.

12. In response to a grand jury subpoena and also pursuant to a search warrant, Yahoo! Inc., an email provider that allows subscribers to obtain email accounts at the domain name “yahoo.com,” produced certain records associated with the YAHOO ADDRESS (the “YAHOO RECORDS”). The YAHOO RECORDS identify the subscriber of the YAHOO ADDRESS as being located in El Paso, Texas. An individual operating that email account represents himself to be “Alan Serrano” in email communications.

13. According to information from publicly available and law enforcement databases, Alan Serrano is a twenty-five year old male that resides at 8116 Gilbert Drive in El Paso, Texas (hereafter “SERRANO”).

14. According to the EBAY RECORDS, the individual operating the USER ID listed the “Shipping Address” as 8116 Gilbert Drive, El Paso, Texas, 79907. According to the PAYPAL RECORDS, the Paypal account associated with the YAHOO ADDRESS lists 8116 Gilbert Drive, El Paso, Texas 79907 as his home address.

15. The EBAY RECORDS show that the person operating the USER ID associated with SERRANO created postings for, and sold or attempted to sell, approximately one hundred-and-two (102) items described as night vision equipment—such as “pvs 14 night vision Gen 3” and “MX-11769 Image intensifier tube for PVS-14”—from between May 21, 2014 and November 1, 2014.

16. According to email communications provided by the CI, on or about and between May 29, 2014 and June 4, 2014, the CI communicated with an individual operating the USER ID associated with SERRANO, as well as the YAHOO ADDRESS associated with SERRANO. Those communications revealed, in sum and substance and in part that:

- i. On May 29, 2014, the individual operating the YAHOO ADDRESS associated with SERRANO stated to the CI that (1) he was the same person who operated the USER ID associated with SERRANO; and (2) he was willing to sell an AN/PVS-14 unit to the CI for \$1650 via a transaction through Paypal; but (3) after further discussions, ultimately told the CI that the AN/PVS-14 unit had been sold to a third party;
- ii. On May 30, 2014, the individual operating the YAHOO ADDRESS associated with SERRANO stated to the CI that a “customer” had additional AN/PVS-14 units, and offered to sell to the CI one of these additional AN/PVS-14 units for \$1200, which was the AN/PVS-14 unit that contained STOLEN IIA-1, and was ultimately purchased and shipped to the CI.

17. According to documents provided by the CI, the CI paid \$1200 for STOLEN IIA-1, and made payment to a PayPal account associated with SERRANO. PAYPAL RECORDS show that the PayPal account associated with SERRANO received a payment of \$1200 from the CI on June 4, 2014.

18. According to records obtained from eBay pursuant to a grand jury subpoena, the CI's shipping address for eBay purchases is in Brooklyn, New York.

19. According to the EBAY RECORDS, on or about June 5, 2014, the individual operating the USER ID associated with SERRANO posted a sales listing on eBay for an item titled "pvs 14 night vision." According to those records, the item was sold on or about June 6, 2014 to an individual operating eBay User ID "ibuyselltradeit," who had an associated email address of "ubuyselltrade@aol.com." The item price was listed as twelve-hundred dollars (\$1200.00).

20. According to the PAYPAL RECORDS, the Paypal account associated with SERRANO received payment from an individual using the email address "ubuyselltrade@aol.com" on June 5, 2014 with the subject "pvs 14 night vision" for twelve-hundred-and-ten dollars and fifty cents (\$1210.50).

21. According to the YAHOO RECORDS, on or about and between June 6, 2014 and June 11, 2014, an individual operating the YAHOO ADDRESS associated with SERRANO engaged in a series of emails with an individual operating the email address "ubuyselltrade@aol.com" regarding a night vision device being sold on eBay. On June 7, 2014, the individual operating the email address "ubuyselltrade@aol.com" inquired, in sum and substance, about the warranty date for the IIA, and noted that the photograph used for the eBay sale indicated that the IIA indicated "12/2004." In response, the individual operating

the YAHOO ADDRESS associated with SERRANO stated, in sum and substance, that photograph used in the eBay listing was not the photo of the actual IIA.

22. On June 7, 2014, the individual operating the YAHOO ADDRESS associated with SERRANO sent a photograph of a warranty sticker associated with an IIA, and wrote “brand new bro” under the photograph. A copy of that photograph is attached as Exhibit 3.

23. One day after the photograph of the warranty sticker was sent, according to the PAYPAL RECORDS, the Paypal account associated with SERRANO received payment from an individual using the email address “ubuyseiltrade@aol.com” on June 8, 2014, with no subject information, for seven hundred and fifty dollars (\$750.00).

24. According to the manufacturer, the photograph of the warranty sticker sent by the individual operating the YAHOO ADDRESS associated with SERRANO is related to an IIA bearing serial number 4116791 (hereafter “STOLEN IIA-2”). STOLEN IIA-2 is one of 227 spare IIAs ordered by the US Army Research, Development and Engineering Command as part of US Government contract W9124Q-05-D-0821 (the same contract number as STOLEN IIA-1), and was shipped to the Defense Depot Susquehanna Pennsylvania New Cumberland Facility on December 22, 2010.

25. According to the YAHOO RECORDS, on or about December 5, 2014, an individual operating the YAHOO ADDRESS associated with SERRANO sent an email, with the subject “PVS-14” to an individual operating the email address “ramunas6116@gmail.com.” The individual operating the YAHOO ADDRESS associated with SERRANO offered for sale “5 tubes, 5 battery packs and 5 eye pieces,” and provided photographs of some of the items, including a photograph of five (5) battery compartments

for night vision devices. A copy of that photograph is attached as Exhibit 4.

26. Special agents from DCIS sent the photograph to a manufacturer of battery compartments for night vision devices. The manufacturer was able to identify the serial numbers on two battery compartments, and informed law enforcement that these two items were sold to the U.S. Army under United States Government contract # W91CRB-11-D-0083, as part of a shipment of 6,600 PVS-14 spare battery compartments shipped to the Defense Depot Susquehanna Pennsylvania New Cumberland Facility in August and September 2012 (the “STOLEN BATTERY COMPARTMENTS”).

27. These battery compartments, like IIAs and other night vision device components, are required by the United States military to be rendered useless for their intended purpose prior to leaving government control. Accordingly, the United States military’s policies prohibit the sale of fully-functional military-issued battery components, like the ones described above being sold by an individual operating the YAHOO ADDRESS associated with SERRANO, and any such sale would therefore be without government authority.

28. On or about March 31, 2015, the individual operating the USER ID associated with SERRANO sold or attempted to sell on eBay five (5) IIAs under eBay listing number 331518460469 for one thousand and four hundred dollars (\$1,400) each. That eBay listing included a photo of an IIA with serial number 3666793. A copy of that photograph is attached as Exhibit 5.

29. According to the manufacturer, the IIA listed by the individual operating the USER ID associated with SERRANO is one of eleven hundred and eighty-three (1183) purchased by the U.S. Army Research, Development and Engineering

Command Acquisition Center as part of United States Government Contract # W9124Q-05-D-0821 (the same contract number as STOLEN IIA-1 and STOLEN IIA-2), and was shipped to the Defense Depot Susquehanna Pennsylvania New Cumberland Facility on or around July 10, 2009 (hereafter “STOLEN IIA-3”).

30. On or about April 8, 2015, the individual operating the USER ID associated with SERRANO sold or attempted to sell on eBay two (2) PVS-14 night vision devices under eBay listing number 331524921421 for two thousand, two hundred-and-fifty dollar (\$2,250) each.

31. On or about April 20, 2015, an HSI special agent, acting in an undercover capacity, communicated with the individual operating the USER ID associated with SERRANO on the eBay messaging system regarding this sale. In response to inquiries from the undercover agent, the individual operating the USER ID associated with SERRANO provided photographs of the PVS-14 night vision devices. The serial number of the IIA contained within the PVS-14 unit, serial number 4135122, was visible in one of these photographs. A copy of that photograph is attached as Exhibit 6.

32. According to the manufacturer, the IIA contained within the PVS-14 unit listed by the individual operating the USER ID associated with SERRANO is one of nine hundred and ninety-nine (999) purchased by the U.S. Army Research, Development and Engineering Command Acquisition Center as part of United States Government Contract # W9124Q-05-D-0821 (the same contract number as STOLEN IIA-1, STOLEN IIA-2, and STOLEN IIA-3), and was shipped to the Defense Depot Susquehanna Pennsylvania New Cumberland Facility on or around January 26, 2011 (hereafter “STOLEN IIA-4”).

33. Although the individual operating the USER ID associated with

SERRANO sold or attempted to sell numerous night vision items, including STOLEN IIA-1, STOLEN IIA-2, STOLEN IIA-3, and STOLEN IIA-4, according to EBAY RECORDS the individual operating the USER ID associated with SERRANO never purchased any night vision device or other military-type equipment.

34. As the evidence in the previous paragraphs indicate, (i) ALAN SERRANO sold, or attempted to sell, hundreds of night vision devices; (ii) six items, STOLEN IIA-1 through STOLEN IIA-4, and the two STOLEN BATTERY COMPARTMENTS, are confirmed to be stolen government property; (iii) SERRANO sold STOLEN IIA-1 for \$1200 and shipped it to a person residing in Brooklyn, New York; and (iv) STOLEN IIA-1 through STOLEN IIA-4 are a part of the same military contract.

Accordingly, there is probable cause to believe that SERRANO knowingly and willfully sold or attempted to sell, without government authority, stolen night vision equipment belonging to the United States, sold that property for over \$1,000, and shipped at least one stolen item to Brooklyn, New York.

WHEREFORE your deponent respectfully requests that an arrest warrant issue for the defendant ALAN SERRANO, so that he may be dealt with according to law. I further request that the Court order that this application, including the affidavit and arrest warrant, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation. Disclosure of this application and these orders would seriously

jeopardize the ongoing investigation, as such a disclosure would give the targets of the investigation an opportunity to destroy evidence, harm or threaten victims or other witnesses, change patterns of behavior, notify confederates and flee from or evade prosecution.

S/ Eric Maryea

ERIC MARYEA
Special Agent
Department of Defense
Defense Criminal Investigative Service

Sworn to before me this
28. day of April, 2015

S/ Robert Levy

THE HONORABLE ROBERT M. LEVY
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

Exhibit 1: Example of AN/PVS-14 Unit



Exhibit 2: Photograph of AN/PVS-14 unite with STOLEN IIA-1

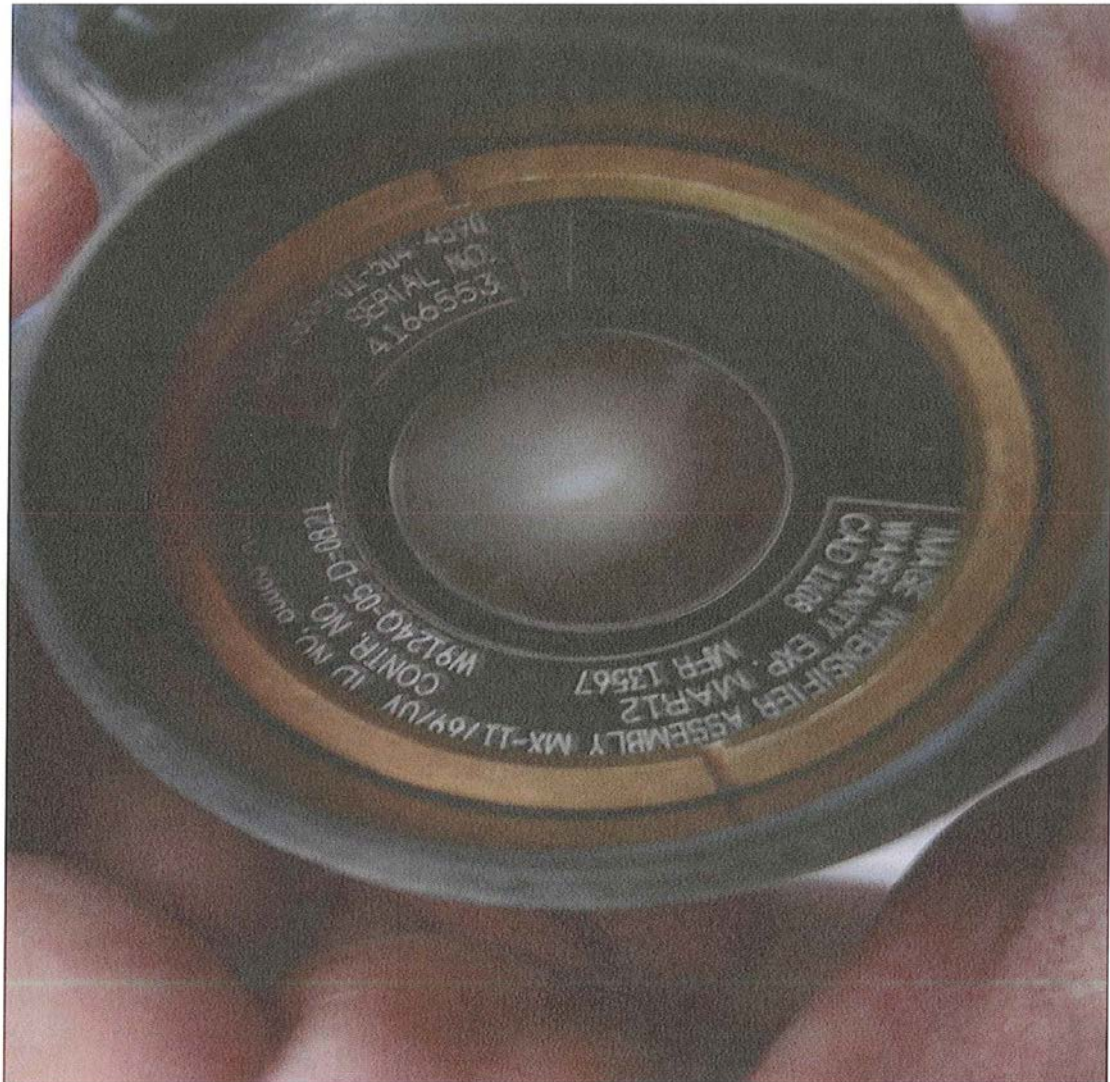


Exhibit 3: IIA Warranty Sticker



Exhibit 4: Photograph of STOLEN BATTERY COMPARTMENTS

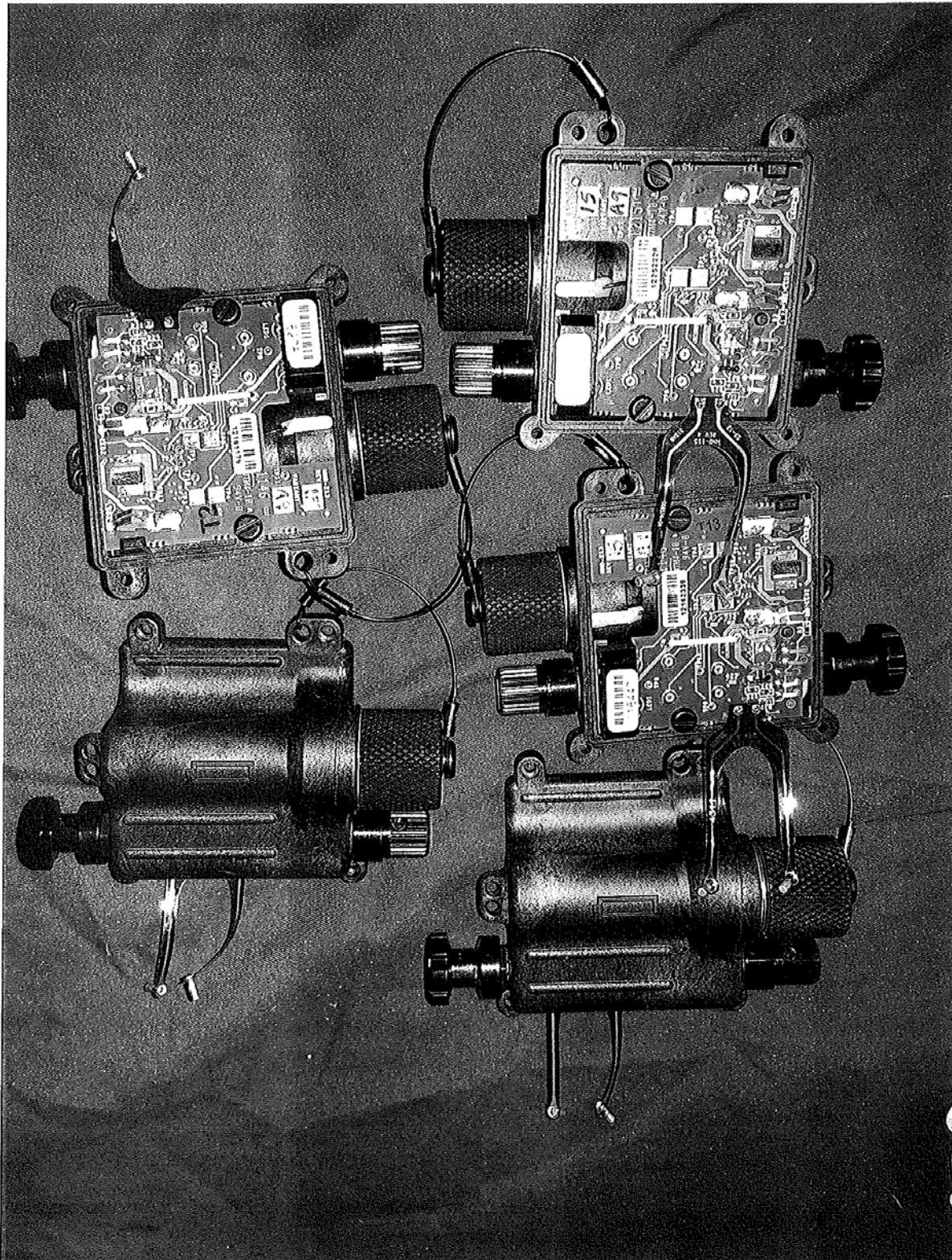


Exhibit 5: Photograph of STOLEN IIA-3



Exhibit 6: Photograph of AN/PVS-14 with STOLEN IIA-4

